



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 1391-99
19 May 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) Case Summary
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps filed an application with this Board requesting that her record be corrected by changing the date she was discharged from active duty, reinstating her in the Marine Corps Reserve, and giving her credit for a qualifying year in 1998 for reserve retirement.

2. The Board, consisting of Mr. Zarnesky, Ms. Gilbert and Ms. Hardbower, reviewed Petitioner's allegations of error and injustice on 16 May 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Petitioner's application was filed in a timely manner.

c. Petitioner was honorably discharged due to pregnancy on 31 August 1997. At that time, she was serving in the grade of SSGT (E-6) and had completed 9 years, 9 months and 28 days of active service. She enlisted in the Marine Corps Reserve on 1 September 1997. The enlistment contract prepared at that time is in error in that no term of years is indicated.

d. Petitioner performed a 12 day period of active duty for special work (ADSW) during the period 23 March to 3 April 1998. Apparently, an error was made on 3 April 1998 because a computer entry was made showing that she was discharged from the Marine Corps Reserve vice being released from active duty.

e. Petitioner states that she performed another period of ADSW at the same command during the period 7 May to 22 May 1998.

She was told that the orders for this period were to be issued later. Apparently, the orders could not be issued because of the erroneous discharge entry of 3 April 1998. She has submitted a fitness report showing that she performed annual training during the period 23 March to 22 May 1999. These dates are in error because there was about a six week break between the two periods of ADSW.

f. Petitioner states that her DD Form 214 was not ready on 31 August 2000 and that she was not actually discharged until the first week in October 1998. In addition, she points out the other errors made in her case and requests reinstatement in the Marine Corps Reserve and pay and retirement point credit for the period of ADSW from 7 May to 22 May 1998.

g. Attached to enclosure (1) is an advisory opinion from Headquarters Marine Corps. The advisory opinion notes that Petitioner signed the DD Form 214 showing the 31 August 1997 discharge date and she has not submitted any evidence to show that this date was in error. Concerning the request for a qualifying year in 1998, the opinion states, in effect, that there is no evidence that she earned sufficient retirement points. The advisory opinion concludes that if she desires to reenlist she should contact the prior service recruiter. None of the errors concerning her USMCR service are addressed in the advisory opinion.

h. Petitioner states in her rebuttal to the advisory opinion, in part, as follows:

When I signed my DD214 on Oct 6th I looked for a date block but one did not follow my signature and therefore was not filled out. Admin nor unit diary personnel explained to me that when the discharge entry was made they were going to back date it. I am trying to establish that admin did not sufficiently, effectively or quickly process my discharge. The list of issues in my original DD149 are a result of admins inefficiency and my discharge being abnormal. I believe I established that in my DD149. I cannot fathom how so many errors have occurred and why I cannot find someone willing to correct them.

Petitioner points out that none of the errors in her Marine Corps Reserve record were addressed in the advisory opinion. She reiterates that she should paid for the second period of ADSW.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants partial favorable action. Concerning her request for a change in the date of her discharge, the Board notes that she had not submitted any evidence, such as a leave and earnings statement, to show that she served on active duty after 31 August 1997. Further, she signed her enlistment contract in the Marine Corps Reserve on 1 September 1997, which is consistent with a discharge from the Regular Marine Corps on 31 August 1997. Accordingly, the Board agrees with the advisory opinion on this issue and no change in the date of discharge is warranted.

Concerning the term of the reserve enlistment contract of 1 September 1987, the Board concludes that Petitioner enlisted for four years on that date. The four year term was selected because of the lapse in time since the errors occurred and to allow the record to be corrected prior to the expiration date of the contract. The Board also concludes that the record should be further corrected to show that Petitioner was released from a active duty on 3 April 1998 vice being discharged on that date. With this correction, the four year enlistment contract will remain in force until 31 August 2002.

The Board deferred action on her request to be paid for the period of ADSW from 7 May to 22 May 1998. It appeared to the Board that orders for that period could now be issued since she will have status. If such orders cannot be issued, Petitioner need to submit a letter from the ADSW command and/or the order issuing authority, supporting her request for payment and giving reporting and detaching dates.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand her status in the Marine Corps Reserve.

RECOMMENDATION:

- a. That Petitioner's naval record be corrected to show that she enlisted in the Marine Corps Reserve on 1 September 2000 for four years.
- b. That Petitioner's naval record be further corrected to show that she was released from a period of ADSW on 3 April 1999 vice being discharged on that date.
- c. That Petitioner's request for a change in the 31 August 1998 discharge date, be denied.
- d. That this Report of Proceedings be filed in Petitioner's

naval record.


4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



for W. DEAN PFEIFFER
Executive Director